

## 3 FAM 3420 SICK LEAVE

*(CT:PER-665; 02-27-2012)*  
*(Office of Origin: HR/ER/WLD)*

## 3 FAM 3421 AUTHORITIES

*(CT:PER-581; 10-20-2005)*  
*(Uniform State/USDA/BBG/Commerce/USAID)*  
*(Applies to Foreign Service Employees and Civil Service Employees)*

The following authorities are cited:

- (1) 5 U.S.C. 6307; and
- (2) 5 CFR 630, Subpart D.

## 3 FAM 3422 DEFINITIONS

*(CT:PER-665; 02-27-2012)*  
*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*  
*(Applies to Foreign Service and Civil Service Employees)*

**Adoption** refers to the legal process by which an individual becomes the legal parent of another's child.

**Committed relationship**, for purposes of this section only unless otherwise specified, means one in which the employee and the domestic partner of the employee are each other's sole domestic partner (and are not married to or domestic partners with anyone else) and share responsibility for a significant measure of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a State or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).

**Communicable disease** is a disease that is ruled as subject to quarantine, and requires isolation or restriction of movement by the patient for a specified period, as prescribed by the health authorities having jurisdiction.

**Covered service member** means certain family members who are veterans as defined in 5 U.S.C. 6381.

**Domestic partner**, for purposes of this section only unless otherwise specified, means an adult in a committed relationship with another adult, including both same-sex and opposite-sex relationships. Employees need not complete form DS-7669, Affidavit Pursuant to Declaring Domestic Partner Relationship, to be eligible to take leave based on such relationships.

**Family member** means an individual with any of the following relationships to the employee:

- (1) Spouse and parents thereof;
- (2) Sons and daughters and spouses thereof;
- (3) Parents and spouses thereof;
- (4) Brothers and sisters and spouses thereof;
- (5) Grandparents and grandchildren and spouses thereof;
- (6) Domestic partner and parents thereof, including domestic partners of any individual in subparagraphs (2) through (5) of this definition; and
- (7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

**Health care provider** has the meaning given that term in 5 CFR 630.1202.

**Leave year** means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

**Medical certificate** is a written statement signed by a registered practicing physician or other practitioner, certifying to the incapacitation, examination or treatment, or to the period of disability while the patient was receiving professional treatment. For family care, employees may provide a written statement from the health care provider concerning the family member's need for psychological comfort and/or physical care.

**Parent** means:

- (1) A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the

employee was a minor;

- (2) A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;
- (3) A person who stands in loco parentis to the employee or who stood in loco parentis to the employee when the employee was a minor or required someone to stand in loco parentis; or
- (4) A parent, as described in subparagraphs (1) through (3) of this definition, of an employee's spouse or domestic partner.

**Serious health condition** is described in 5 CFR 630.1202 as follows:

"Serious health condition means an illness, injury, impairment, or physical or mental condition that involves—

(i) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

(ii) Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following—

(A) A period of incapacity of more than 3 consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves—

(1) Treatment two or more times by a health care provider, by a health care provider under the direct supervision of the affected individual's health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition).

(B) Any period of incapacity due to pregnancy or childbirth, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity

or the period of incapacity does not last more than 3 consecutive calendar days.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that—

- (1) Requires periodic visits for treatment by a health care provider or by a health care provider under the direct supervision of the affected individual's health care provider;
- (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). The condition is covered even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days;

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The affected individual must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease).

(E) Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity or more than 3 consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).

(Serious health condition does not include routine physical, eye, or dental examinations; a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider; a condition for which cosmetic treatments are administered, unless inpatient hospital care is required or unless complications develop; or an absence because of an employee's use of an illegal substance, unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are not serious health

conditions. Allergies, restorative dental or plastic surgery after an injury, removal of cancerous growth, or mental illness resulting from stress may be serious health conditions only if such conditions require inpatient care or continuing treatment by a health care provider.)”

**Son or daughter** means:

- (1) A biological, adopted, step, or foster son or daughter of the employee;
- (2) A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;
- (3) A person for whom the employee stands in loco parentis or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or
- (4) A son or daughter, as described in subparagraphs (1) through (3) of this definition, of an employee's spouse or domestic partner.

### **3 FAM 3423 GENERAL**

*(CT:PER-665; 02-27-2012)*

*(Uniformed State/USDA/BBG/Commerce/USAID)*

*(Applies to Foreign Service Employees and Civil Service Employees)*

- a. An employee who follows procedures for applying for leave and provides any required medical certification as set out in these regulations must be granted currently accrued and accumulated sick leave for the following purposes:
  - (1) When the employee is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
  - (2) For medical, dental or optical examinations or treatments;
  - (3) When, as determined by the health authorities having jurisdiction or by the employee's health care provider, the employee's health may jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
  - (4) To provide care for a family member with a serious health condition:
    - (a) Up to 480 hours of sick leave may be used for this purpose in any leave year, minus any hours of leave taken for the

purposes described in 3 FAM 3423, subparagraph a(5);

- (b) For a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week may be used for this purpose in any leave year; and
  - (c) Accrued sick leave substituted for unpaid leave under the Family and Medical Leave Act to care for a covered service member does not count against the limit specified in this section (see 3 FAM 3423, paragraph b);
- (5) Up to 104 hours of sick leave may be used per leave year for the following purposes, or, for a part-time employee or an employee with an uncommon tour of duty, the number of hours of sick leave he or she normally accrues during a leave year:
- (a) To provide care for a family member who is incapacitated by a medical or mental condition;
  - (b) To attend to a family member receiving medical, dental, or optical examination or treatment;
  - (c) To provide care for a family member who, as determined by the health authorities having jurisdiction or by a health provider, would jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; and
  - (d) To make arrangements necessitated by the death of a family member or to attend the funeral of a family member; and
- (6) When an employee must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed. Adoptive parents who choose to be absent from work to bond with or care for a healthy adopted child may not use sick leave for this purpose. Parents may use annual leave or leave without pay for these purposes. An agency may request administratively acceptable evidence for absences related to adoption.
- b. The amount of accrued sick leave an employee may substitute for unpaid leave under the Family and Medical Leave Act to care for a covered service member may not exceed a total of 26 administrative workweeks

in a single 12-month period (or, for a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 26 times the average number of hours in his or her scheduled tour of duty each week (see 5 CFR 630.403)). Sick leave used for this purpose does not count against the 480-hour limit (or other applicable limit in the case of part-time employees or employees with uncommon tours of duty) on sick leave that may be taken to care for a family member with a serious medical condition (see 3 FAM 3423, subparagraph a(4)).

### **3 FAM 3424 SCOPE AND APPLICABILITY**

*(CT:PER-581; 10-20-2005)*

*(Uniformed State/USDA/BBG/Commerce/USAID)*

*(Applies to Foreign Service Employees and Civil Service Employees)*

This subchapter applies to Foreign Service and Civil Service employees of the Department of State, USAID, BBG, Commerce, and Foreign Service Corps—USDA.

### **3 FAM 3425 AUTHORIZING OFFICIAL**

*(CT:PER-665; 02-27-2012)*

*(Uniformed State/USDA/BBG/Commerce/USAID)*

*(Applies to Foreign Service Employees and Civil Service Employees)*

Authorizing officials for approving sick leave and advanced sick leave are designated in 3 FAM 3427, paragraph b (current and/or cumulative), and in 3 FAM 3428.2 (advanced).

### **3 FAM 3426 REPORTING ABSENCE ON ACCOUNT OF ILLNESS**

*(CT:PER-605; 07-01-2008)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

Absence because of illness or injury must be reported immediately to the official authorized to grant sick leave. Failure to give such notice may result in a charge to annual leave, leave without pay (LWOP), or absence without official leave (AWOL), as appropriate.

## **3 FAM 3427 APPLICATION FOR LEAVE ON ACCOUNT OF ILLNESS**

*(CT:PER-665; 02-27-2012)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

a. The employee's own certification as to reasons for absence on account of illness normally will be acceptable for absences of 3 workdays or less. However, the employee may be required to submit a medical certificate or other administratively acceptable evidence for absences of 3 workdays or less if the head of the office to which the employee is assigned has reason to believe that the employee is improperly using sick leave. If required, an employee must submit medical certification within 15 days of the leave-approving official's request. Failure to comply may result in AWOL, which can lead to disciplinary action. If the leave-approving official approves the absence, then sick leave, annual leave, or LWOP may be charged as applicable (see 3 FAM 3422 for a definition of medical certificate and 3 FAM 4320, Disciplinary Action - Common Practices):

- (1) Except in cases of medical evacuation, if requesting sick leave in excess of 3 workdays, the employee must submit a written application for sick leave no later than 2 workdays after returning to duty. Medical documentation is generally required for an absence in excess of 3 days when determined by the supervisor or office head. An employee who does not provide required evidence of medical certification within 15 days is not entitled to use sick leave for this purpose and will be charged absence without official leave (AWOL), which can lead to disciplinary action, or annual leave if appropriate (or LWOP if annual leave is approved but not available). If the services of a physician are not used, the employee may submit a signed statement indicating the nature of the illness and the reason for not furnishing a medical certificate, subject to approval by the leave-approving official;
- (2) When circumstances permit, requests for sick leave must be submitted to the official authorized to grant leave in advance of absence;
- (3) Permission for leave for nonemergency medical, dental, or optical examination or treatment must be obtained from the approving official before an employee takes sick leave. In a medical emergency, the employee must attempt to advise his or her leave-approving official (or designated representative) of the situation as soon as possible on the day of the absence, if possible. If neither



the approving official nor the designated representative is present to approve the leave request, the employee must leave a message giving a telephone number where he or she can be reached;

- (4) All requests for sick leave because of exposure of the employee or a family member to a communicable disease must be supported by a certificate from a health authority that reflects the actual period of quarantine, isolation, or restriction of movement; and
- (5) When caring for a family member with a serious health condition, a medical certificate or other administratively acceptable evidence as to the reason for the absence is required (see 3 FAH-1 H-3426).

b. Authorizing officials for current and cumulative sick leave:

- (1) Chiefs of mission, principal officers (State) and USAID mission directors or representatives, may approve sick leave on his or her own behalf;
- (2) The principal officer (Commerce) reports leave in excess of 1 workweek to headquarters, Office of Foreign Service-Human Resources;
- (3) Domestic employees: Designated authorizing official and/or immediate supervisor; and
- (4) Employees abroad:

State	Designated authorizing official and/or immediate supervisor
BBG	Head of BBG/IBB establishment or designee abroad
Commerce	Principal commerce officer and/or human resources officer
USAID	Employee's leave-approving official
USDA	Head of USDA organization abroad.

## **3 FAM 3428 ADVANCED SICK LEAVE**

*(CT:PER-665; 02-27-2012)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

- a. When required by the exigencies of the situation and subject to restrictions in 3 FAM 3428.1, advanced sick leave may be granted in the amount of:
  - (1) Up to 240 hours to a full-time employee, including employees serving a probationary period and employees holding appointments with no expiration date:
    - (a) Who is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
    - (b) For a serious health condition of the employee or a family member;
    - (c) When the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
    - (d) For purposes relating to the adoption of a child (see 3 FAM 3423, subparagraph (6)); or
    - (e) For the care of a covered service member with a serious injury or illness, provided the employee is exercising his or her entitlement under provisions of the Family and Medical Leave Act (5 U.S.C. 6382(1)(3)); and
  - (2) Up to 104 hours to a full-time employee:
    - (a) When he or she receives medical, dental, or optical examination or treatment;
    - (b) To provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;
    - (c) To provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or
    - (d) To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.
- b. Sick leave advances are subject to the following requirements:

- (1) Requests for advanced sick leave must be submitted in writing and must be supported by a medical certificate or other satisfactory evidence in support of the request;
- (2) Sick leave may be advanced only after all current accrued and accumulated sick leave is exhausted. Sick leave may be advanced even though the employee has annual leave to the employee's credit;
- (3) Sick leave is advanced with the understanding that future absence due to illness must be charged to annual leave or LWOP until the total sick leave advance has been liquidated, except as provided in 3 FAM 3428.1. An employee who subsequently retires (other than on disability) or resigns is liable for repayment of any outstanding negative sick leave balance. Exceptions to repaying the leave can be found in 5 CFR 630.209; and
- (4) Sick leave may not be advanced to an employee when it is known that the employee does not intend to return to duty.

### **3 FAM 3428.1 Restrictions on Advance of Sick Leave**

*(CT:PER-665; 02-27-2012)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)  
(Applies to Foreign Service and Civil Service Employees)*

Subject to the restrictions set forth in 3 FAM 3428, sick leave may be advanced as follows:

- (1) Up to 240 hours may be advanced per serious illness. In the event of another serious illness before liquidation of the original advance, an additional advance may be authorized, not to exceed a total deficit of 240 hours at any one time, subject to the same restrictions that applied to the original advance;
- (2) Accrued and advanced sick leave combined may not exceed 480 hours per leave year to care for a family member with a serious health condition (see 3 FAM 3423, subparagraph a(4)). Of the 480 hours, 104 hours per leave year may be used for the purposes cited in 3 FAM 3423, subparagraph a(5); sick leave advanced to care for a covered service member under the Family and Medical Leave Act (FMLA) does not count against the 480-hour limit, but does count against the 240-hour limit on advanced sick leave (3 FAM 3423, paragraph b);

- (3) The maximum amount of sick leave that can be advanced to part-time employees or employees on an uncommon tour of duty is prorated based on the number of hours in the employee's regularly scheduled administrative workweek;
- (4) Advances of sick leave are within the discretion of the leave-approving official. The leave-approving official will consider the circumstance of each individual case, including the employee's past record of use of sick leave, whether the employee is under leave restriction, the recommendation of the employee's attending physician, and other pertinent factors; and
- (5) Sick leave may be advanced to employees holding temporary, limited-indefinite or time-limited appointments, except that such advances may not exceed the total sick leave that would accrue during the remaining period of such appointment. Appointments made subject to security clearance are considered as 90-day appointments until such clearance is made.

### **3 FAM 3428.2 Authorizing Official for Advanced Sick Leave**

*(CT:PER-605; 07-01-2008)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

The authorizing officials are:

State	Leave-approving official or bureau executive director's office.
BBG	IBB, Office of Personnel.
USAID	Employee's leave-approving official.
USDA	See FARS 6325.
APHIS	See Directive 420.6.
Commerce	Employee's leave-approving official.

### **3 FAM 3429 OTHER SICK LEAVE CIRCUMSTANCES**

### **3 FAM 3429.1 Sick Leave Before Separation**

*(CT:PER-605; 07-01-2008)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

An employee who is ill or disabled may be granted: all current accrued and accumulated sick leave due to the employee; any additional sick leave that has accrued while in leave status and LWOP at the discretion of the appropriate leave-approving official. If an ill or disabled employee resigns while on leave, the employee's leave-with-pay status must terminate not later than the end of the payroll period in which the notification is received in the appropriate headquarters personnel office. If the employee has been granted sick leave that would extend beyond the end of the payroll period, the employee may be continued on sick leave until the expiration of the approved leave, provided that no advance sick leave may be utilized. Refer to 3 FAM 3428, subparagraph b(4).

### **3 FAM 3429.2 Sickness During Annual Leave, Home Leave, Transit Time**

*(CT:PER-581; 10-20-2005)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

When sickness or injury occurs while the employee is on annual or home leave, or when the illness or injury necessitates an extension of transit time, the period of illness may be charged as sick leave, provided that the period of disability covers at least one workday. Applications for such substitution must be supported either by a medical certificate or, if the illness did not necessitate medical attention, by a signed statement from the employee indicating the nature of illness (see 3 FAM 3427).

### **3 FAM 3429.3 Abuse of Sick Leave**

*(CT:PER-581; 10-20-2005)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

The leave-approving official will review the circumstances surrounding seemingly excessive or indiscriminate use of sick leave to determine whether there is improper use of sick leave. The requirement for the proper use of sick leave should be reemphasized, and the employee may be required to furnish medical evidence of illness when sick leave is requested or taken on future occasions, even though the period of absence is three days or less

(see 3 FAM 3427). In case of continued excessive or indiscriminate use of sick leave, disciplinary action may be taken (see 3 FAM 4320).

### **3 FAM 3429.4 Procedures and Guidelines**

*(CT:PER-581; 10-20-2005)*

*(Uniform State/USAID/BBG/Commerce/Foreign Service Corps-USDA)*

*(Applies to Foreign Service and Civil Service Employees)*

See 3 FAH-1 H-3420 for the procedures and guidelines governing administration of sick leave.

## 3 FAM EXHIBIT 3421.1 SICK LEAVE USAGE

*(CT:PER-665; 02-27-2012)*

Category (Usage for)	Purpose of Sick Leave	Provisions
Employee	<p>Physical or mental illness;</p> <p>Physical injury;</p> <p>Medical treatment (medical, dental or optical appointments);</p> <p>Incapacitation due to pregnancy or childbirth;</p> <p>Exposure to communicable diseases; or</p> <p>Adoption-related activities.</p>	<p>Paid sick leave accrued in employee's account. Sick leave may be granted when supported by evidence that is administratively acceptable (including the employee's certification). For an absence of 3 workdays or more (or a lesser time, if requested by a supervisor), a medical certificate or other administratively acceptable evidence may be required by the leave approval official.</p> <p>A maximum of 240 hours of sick leave may be advanced to an employee in accordance with the policies in 3 FAM 3428.</p>
<p>General family care and bereavement</p> <p>(5 CFR 630.401(a)(3)(i) and (4); and 3 FAH-1 H-3425.1)</p>	<p>Provide care for a family member who is incapacitated by a medical or mental condition;</p> <p>Attend to a family member receiving medical, dental, or optical examination or treatment;</p> <p>Attend to a family member who would, as determined by health authorities,</p>	<p>A maximum of 104 hours (13 days) may be used per leave year for the purposes in 3 FAM 3423, subparagraphs a(5) through a(8), or, for a part-time employee or an employee with an uncommon tour of duty, the number of hours of sick leave he or she normally accrues during a leave year.</p> <p>Up to 104 hours of sick leave may be advanced to an employee in accordance with the policies in 3 FAM 3428.</p>

	<p>jeopardize the health of others by his or her presence in the community because of exposure to a communicable disease; or</p> <p>Make arrangements necessitated by the death of a family member or attend the funeral of a family member.</p>	
<p>*Care of family member with a serious health condition</p> <p>(5 CFR 630.401(a)(3)(ii); and 3 FAH-1 H-3424.1)</p>	<p>Care of family member with a serious health condition (3 FAM 3422 or 5 CFR 630.1202).</p>	<p>A maximum of 480 hours (12 weeks) of accrued and advanced sick leave may be used per leave year, unless the sick leave is being used under the Family Medical and Leave Act (FMLA) to care for a covered service member (3 FAM 3424, paragraph b). See 3 FAM 3423, subparagraph a(4)(b) for limitations for part-time employees. Medical certification may be required by leave-approving official.</p> <p>If an employee previously used any portion of the 104 hours (13 days) of sick leave for general family care or bereavement purposes in the current leave year, that amount must be subtracted from the 12-week (480 hours) entitlement.</p> <p>Up to 240 hours of sick leave may be advanced to an employee in accordance with the policies in 3 FAM 3428.</p>

\*The common cold, the flu, earaches, upset stomach, headaches (other than



migraines), routine dental or orthodontia problems are **not** serious health conditions unless complications arise. (See the description of serious health condition in 3 FAM 3422.)